

REMARKS

Claims 1-41 are pending in this patent application, and claims 15 and 34-40 have been previously withdrawn from further consideration. By this amendment, claims 1-18 and 34-41 have been canceled, claims 19, 20, 21, 22, 24, 25, 26, and 30 have been amended, and claims 42-52 have been added. Reconsideration of this patent application, as amended, is respectfully requested.

Amendment to Drawings

In accord with the Examiner's comments, Figs. 5, 6, 12, and 16 have been amended to remove the following reference numerals and their associated lead lines: 26a, 32a, 238b, 238a, 98, 90, and 108.

Claim Objection

Claim 19 has been amended to remove the phrase "said cross bar and said frame component providing controlled compression of a bone or joint retained by fixation wires tied to said frame component and said cross bar".

First 35 U.S.C. § 102 Rejection

Claims 1-3, 5-6, and 13 were rejected under 35 U.S.C. § 102 as being anticipated by Szabo (U.S. Patent No. 5,885,282). These claims have been canceled.

Second 35 U.S.C. § 102 Rejection

Claims 19, 21-29 were rejected under 35 U.S.C. § 102 as being anticipated by Moorcraft et al. (U.S. Patent No. 6,328,737). Claims 19, 21, 22, 24, 25, and 26 have been amended to more clearly define the invention. Reconsideration of these claims, as amended, is respectfully requested.

Discussion Regarding Patentability of Amended Claim 19

Amended Claim 19

Amended Claim 19 recites reads as follows:

19. An external bone/joint fixation device comprising:
a frame component having a posterior portion and an anterior portion disposed transverse to said posterior portion, said frame component including a plurality of first fixation bores defined in said posterior portion;
a cross bar assembly attachable to said anterior portion of said frame component, said cross bar assembly including a cross bar component fixable at any one of a plurality of positions in relation to said anterior portion, said cross bar component having a plurality of second fixation bores;
a posterior angulation assembly attachable to said posterior portion of said frame component at any one of a plurality of positions in relation to said posterior portion; and
a fixation wire extending from said posterior angulation assembly to said cross bar component.

Moorcraft does not disclose these limitations. Among, many other things, Moorcraft does teach *a posterior angulation assembly attachable to a posterior portion of said frame component at any one of a plurality of positions in relation to said posterior portion* as required by amended claim 19. Note that the bracket 221 was equated with the claimed "posterior portion of the frame component". And as can be seen from Moorcraft's Fig. 1, the only component that even arguably is attached to the bracket 221, besides the support tubes 225 (which were equated with the claimed "anterior portion of the frame component"), is the

rod 227. However, Moorcraft's rod 227 cannot be construed be a posterior angulation assembly having all the characteristics recited in amended claim 1. For example, what component of Moorcraft would be the claimed "fixation wire extending between the posterior angulation assembly and the cross bar component?

It is axiomatic that anticipation of a claim under 35 U.S.C. § 102 is proper only if the prior art reference discloses each and every element of the claim. Since Moorcraft does not disclose each and every element of Applicants' amended claim 19, Moorcraft does not anticipate Applicants' amended claim 19.

Discussion Regarding Patentability of Amended Claims 21-29

Each of amended claims 21-29 depends directly or indirectly from amended claim 19. As a result, each of amended claims 21-29 is allowable for, at least, the reasons hereinbefore discussed with regard to amended claim 19.

Third 35 U.S.C. § 102 Rejection

Claim 41 was rejected under 35 U.S.C. § 102 as being anticipated by Volkov et al. (U.S. Patent No. 4,338,927). Claim 41 has been canceled.

First 35 U.S.C. § 103 Rejection

Claims 4, 7, 8, and 17-18 were rejected under 35 U.S.C. § 103 as being unpatentable over Szabo (U.S. Patent No. 5,885,282). These claims have been canceled.

Second 35 U.S.C. § 103 Rejection

Claim 16 was rejected under 35 U.S.C. § 103 as being unpatentable over Szabo (U.S. Patent No. 5,885,282) in view of Blyakher (U.S. Patent No. 5,776,132). This claim has been canceled.

Third 35 U.S.C. § 103 Rejection

Claims 1, 9-14, and 19-26 were rejected under 35 U.S.C. § 103 as being unpatentable over Szabo (U.S. Patent No. 5,885,282). Claims 1 and 9-14 have been canceled. Claims 19, 20, 21, 22, 24, 25, and 26 have been amended to more clearly define the invention. Reconsideration of claims 19-26, as amended, is respectfully requested.

Discussion Regarding Patentability of Amended Claim 19

Amended Claim 19 recites reads as follows:

19. An external bone/joint fixation device comprising:
a frame component having a posterior portion and an anterior portion disposed transverse to said posterior portion, said frame component including a plurality of first fixation bores defined in said posterior portion;
a cross bar assembly attachable to said anterior portion of said frame component, said cross bar assembly including a cross bar component fixable at any one of a plurality of positions in relation to said anterior portion, said cross bar component having a plurality of second fixation bores;
a posterior angulation assembly attachable to said posterior portion of said frame component at any one of a plurality of positions in relation to said posterior portion; and
a fixation wire extending from said posterior angulation assembly to said cross bar component.

The modification of Szabo proposed in the Office Action (at page 9, lines 5-6) is as follows:

It would have been obvious ... to construct the device of [Szabo] as one piece.

However, even if it would have been obvious to modify Szabo as described above, the resulting modification would not arrive at the invention of amended claim 19. Significantly, amended claim 19 calls for "a fixation wire extending from said posterior angulation assembly to said cross bar component." The only fixation wires present in Szabo extend from a first part of the circular ring 12 to another part of the circular ring 12, or from a first part of the circular ring 14 to another part of the circular ring 14.

Thus, the proposed modification of Szabo would not arrive at Applicants' amended claim 19. Accordingly, the proposed modification of Szabo does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103 with regard to the invention of amended claim 19.

Discussion Regarding Patentability of Amended Claims 20-26

Each of amended claims 20-26 depends directly or indirectly from amended claim 19. As a result, each of amended claims 20-26 is allowable for, at least, the reasons hereinbefore discussed with regard to amended claim 19.

Fourth 35 U.S.C. § 103 Rejection

Claims 30 and 32-33 were rejected under 35 U.S.C. § 103 as being unpatentable over Moorcraft (U.S. Patent No. 6,328,737). Claim 30 has been

amended to more clearly define the invention. Reconsideration of claims 30 and 32-33, as amended, is respectfully requested.

Each of amended claims 30 and 32-33 depends directly from amended claim 19. As a result, each of amended claims 30 and 32-33 is allowable for, at least, the reasons hereinbefore discussed with regard to amended claim 19.

Newly Added Claims 42-52

Newly added claims 42-52 recite novel and nonobvious limitations. Thus, each of claims 42-52 is allowable over the cited art. For instance, claim 42 reads as follows:

42. A fixation device, comprising:
a frame having (i) a posterior portion defining a first plane, and (ii) an anterior portion defining a second plane which is non-coplanar in relation to said first plane;
a cross bar assembly configured to be coupled to said anterior portion of said frame component;
a posterior angulation assembly configured to be coupled to said posterior portion of said frame component; and
a fixation member extending from said posterior angulation assembly to said cross bar component.

None of Szabo, Moorcraft, Volkov, and Blyakher discloses or suggests, alone or in combination with another reference, all the limitations of newly added claim 42.

Restriction/Election Statement Regarding New Claims 42-52

All claims 42-52 are readable on the elected species A that is associated with figures 1-11.

Conclusion

In view of the foregoing amendments and remarks, it is submitted that this application is in condition for allowance. Action to that end is hereby solicited.

Respectfully submitted,

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ATTACHMENT (1 of 3),

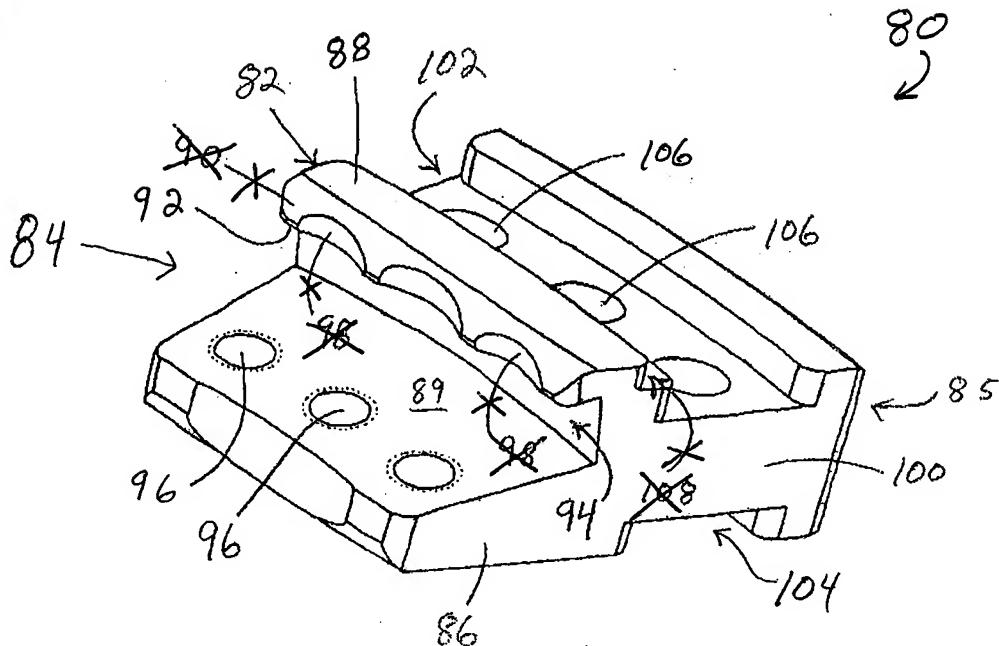


Fig. 5

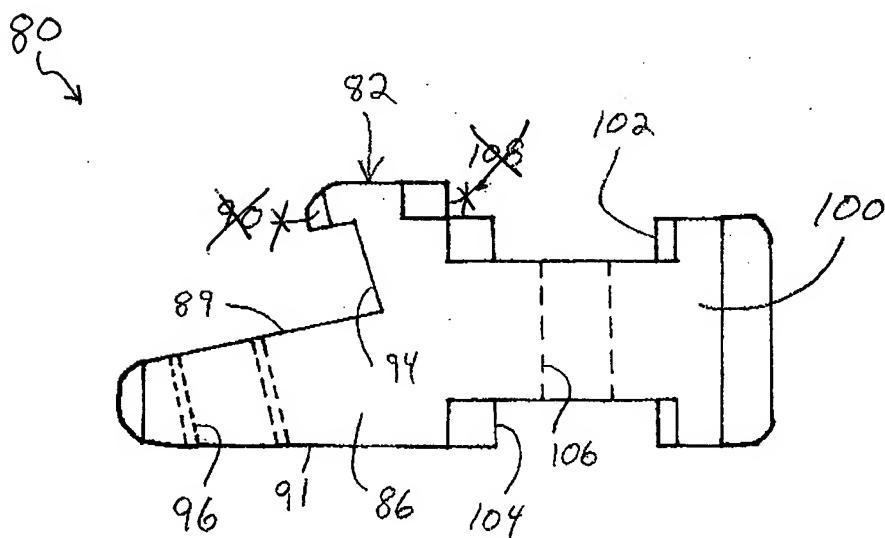


Fig. 6

ATTACHMENT (2 of 3)

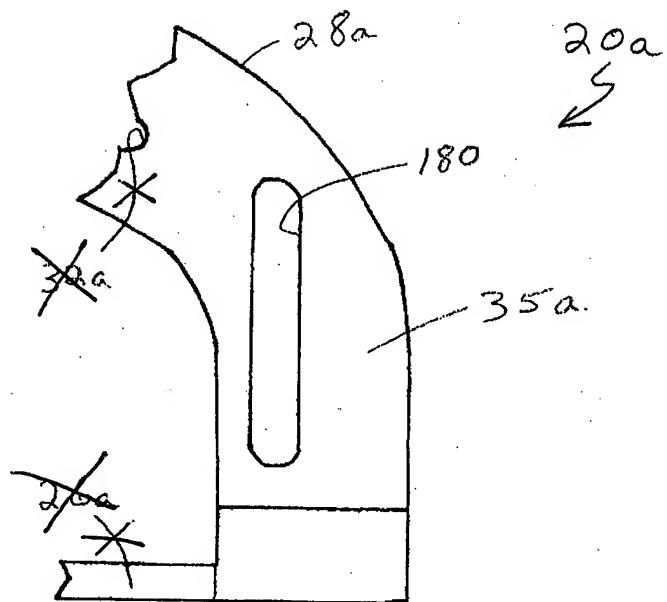


Fig. 12

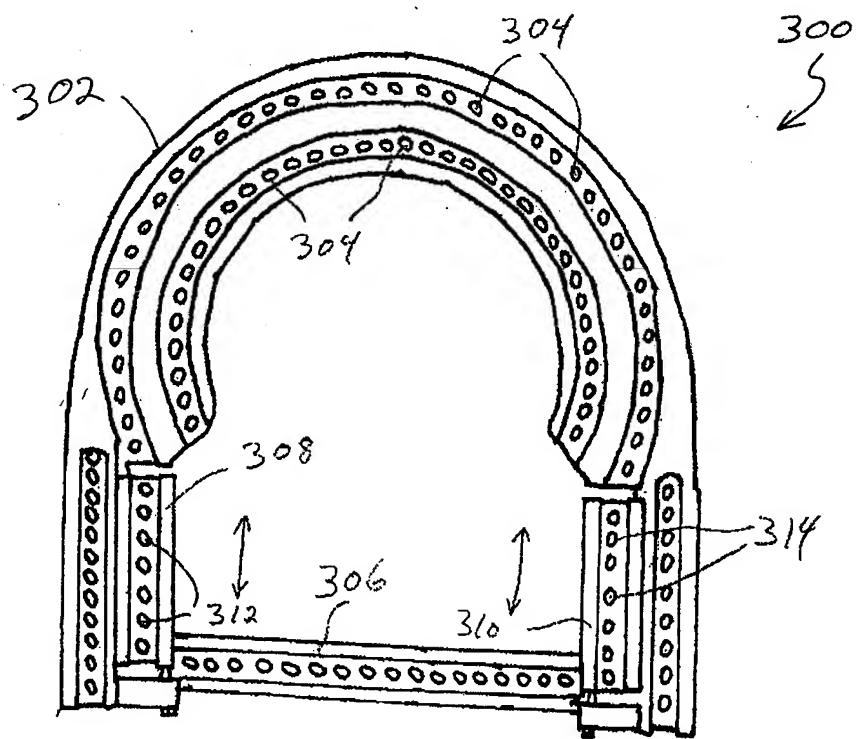


Fig. 19

○ ATTACHMENT (3 of 3)

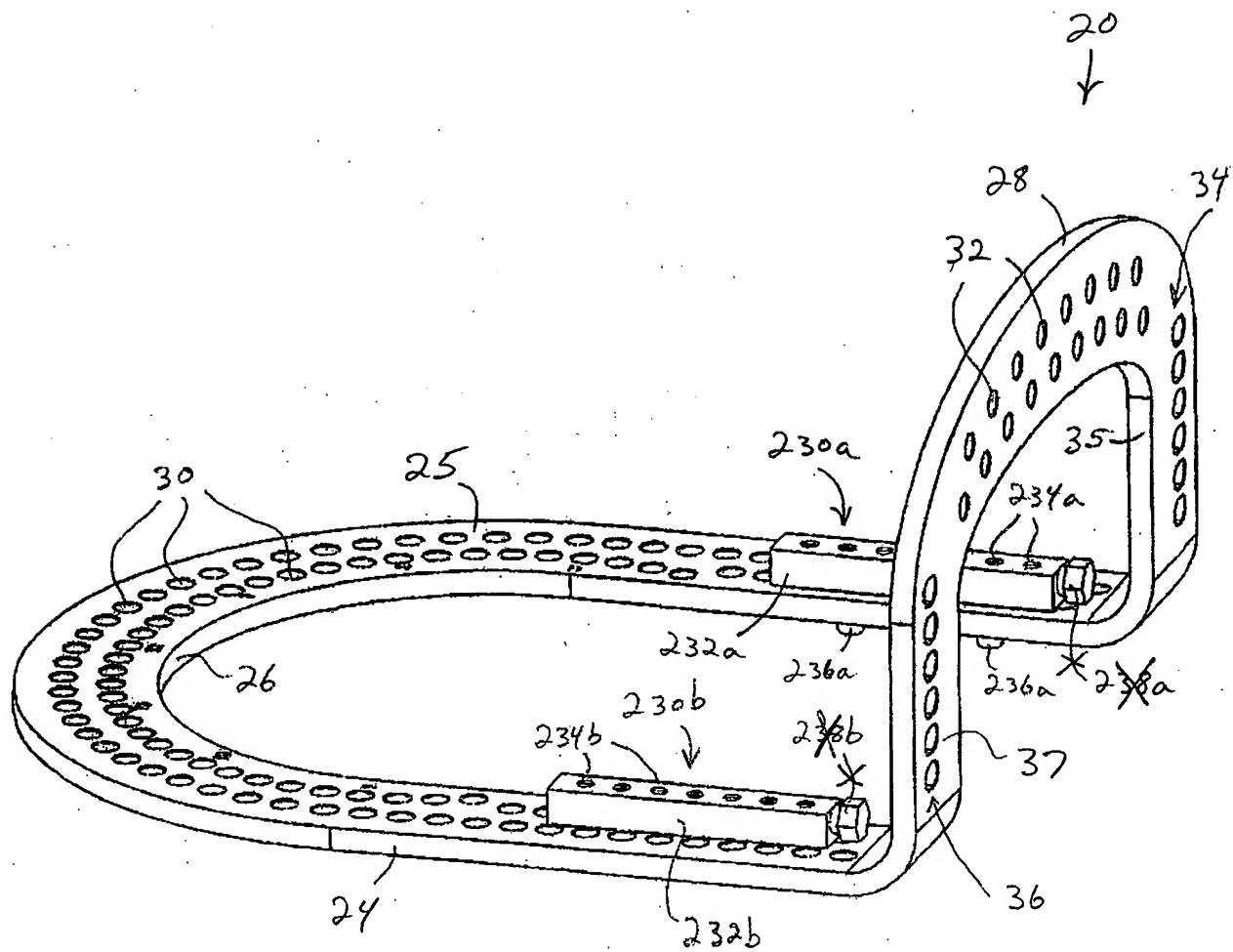


Fig. 16